

Remarks

Claims 1-4, 6, 8-10, 15-26, 29-32, 34-41, 43-45 and 47-59 were pending. By this amendment, claims 1, 8, 21-24, 26, 30, 32, 35-37, 40, 43, 44, 49-54 and 58 have been amended to be directed to Rab11A or Rab11A modulators only. Support for these claim amendments can be found throughout the specification and the claims as originally filed. Claims 2, 9, 10, 15-17 and 19 have been canceled without prejudice.

No new matter is introduced by the foregoing amendments and no amendments are made to distinguish prior art. After entry of this amendment, **Claims 1, 3, 4, 6, 8, 18, 20-26, 29-32, 34-41, 43-45 and 47-59 are pending in the application.** Consideration of the pending claims is requested.

Examiner Interviews

Applicants thank Examiner Swope for having a telephone interview with Applicants' representative Karri Kuenzli Bradley on April 23, 2008 and April 25, 2008. During the interviews, the statutory period for responding to this Restriction Requirement was discussed. The present PTOL-326 sets the shortened statutory period for reply as 3 months. However, the shortened statutory period for a restriction requirement is normally 1 month. Examiner Swope agreed on April 28, 2008 that although the 3-month time period for response was listed by mistake, in the interest of public service the shortened statutory period would be 3 months.

Restriction Requirement

The Office alleges that the pending claims are directed to eight inventions that do not relate to a single inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, allegedly the claims lack the same or corresponding special technical features. The Office has required restriction to one alleged invention under 37 CFR § 1.499. The eight Groups provided by the Office are the following:

Group I	Claims 1-4, 6, 8-10, 15-26, 19-32, and 34, drawn to a method of decreasing infection by decreasing the activity of a Rab protein;
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Group II	Claims 35-39, drawn to a method of treating infection in a patient by administering an agent that interferes with the interaction of a pathogen and a host protein;
Group III	Claims 40, 41, 43-45, 47, and 48 drawn to a method for identifying an agent that decreases pathogenicity by decreasing Rab activity;
Group IV	Claim 49, drawn to a cell comprising a gene deletion;
Group V	Claim 50, drawn to a transgenic mammal comprising a gene deletion;
Group VI	Claims 51-53, drawn to a method for identifying a Rab modulator by detecting pathogenic infection in a cell;
Group VII	Claims 54-57, drawn to a method for determining resistance/susceptibility to pathogenic infection by comparing sequences; and
Group VIII	Claims 58 and 59, drawn to a polynucleotide.

Applicants respectfully traverse the restriction requirement for at least the following reasons.

Traversal of Requirement to Elect Type of Activity

The restriction of claims 40, 41, 43-45, 47 and 48 to a specific type of activity is respectfully traversed. Applicants assert that following entry of this Response, the scope of the presently pending claims will be at least narrowed to being directed to methods for identifying an agent that decreases pathogenicity of a viral pathogen by decreasing Rab11A activity. Applicants therefore contend that is unreasonable to require the claims to be further limited to a particular type of activity.

Applicants further assert that if any type of restriction is proper (and the Applicants do not in any way concede that it is proper), a requirement for an election of species should be considered. All of the types of Rab11A activity (*e.g.*, enzymatic activity or expression) can be included into a single genus (Rab11A activity). As such, each type of activity (decreasing expression or decreasing enzymatic activity) is a species of the single genus (decreasing Rab11A activity) and it is unreasonable to require Applicants to further narrow the scope of the claims to a single specific type of activity. Therefore, if a restriction is required it should be an election of species.

Applicants also assert that a search of the term “activity” will turn up enzymatic activity and expression because expression is one manner in which activity can be altered. Therefore, if the restriction requirement is maintained, Applicants request that both types of activity be prosecuted together in the present application because it would not constitute an undue burden on the Office.

Required Election(s)

As required to ensure completeness of this response, Applicants hereby provisionally elect Examiner’s Group III (claims 40, 41, 43-45, 47 and 48). Applicants also provisionally elect Rab11A, a decrease in enzymatic activity and a viral pathogen.

Finally, the Office requires the identification of claims encompassing the elected invention. Claims 40, 41, 43-45, 47 and 48 encompass the elected invention.

CONCLUSION

Substantive examination of the pending claims is respectfully requested. The Examiner is invited to call the undersigned if the Examiner believes that a telephone interview would facilitate substantive examination of this application.

Respectfully submitted,

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